

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

	X	
	:	Chapter 11
In re:	:	
	:	Case No. 08-13555 (SCC)
LEHMAN BROTHERS HOLDINGS INC., et al.,	:	
	:	
Debtors.	:	
	X	

**ORDER GRANTING LEHMAN BROTHERS HOLDINGS INC.'S MOTION FOR ENTRY
OF AN ORDER AGAINST K&B CAPITAL CORP. (I) TO ENFORCE AGAINST K&B
CAPITAL CORP., AND TO COMPEL IT TO COMPLY WITH, THE ALTERNATIVE
DISPUTE RESOLUTION PROCEDURES ORDER FOR INDEMNIFICATION CLAIMS
OF THE DEBTORS AGAINST MORTGAGE LOAN SELLERS, AND (II) FOR CIVIL
CONTEMPT SANCTIONS AGAINST K&B CAPITAL CORP. FOR ITS VIOLATION
OF THE ORDER**

Upon the motion dated November 16, 2016 (the "Motion")¹ filed in the above-captioned jointly administered Chapter 11 Cases by Lehman Brothers Holdings Inc. ("LBHI"), as Plan Administrator under the *Modified Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and Its Affiliated Debtors*, confirmed by Confirmation Order entered December 6, 2011 [ECF No. 23023], for the Debtors in the Chapter 11 Cases, seeking entry of an omnibus order (i) to enforce against Noncompliant Sellers, and to compel them to comply with, the June 24, 2014 *Alternative Dispute Resolution Procedures Order for Indemnification Claims of the Debtors Against Mortgage Loan Sellers* entered July 18, 2014 [ECF No. 45277] (the "ADR Order") in the Chapter 11 Cases, and (ii) for civil contempt sanctions against such Noncompliant Sellers for their violation of the ADR Order, as set forth in the Motion and in the Declaration filed therewith; and, the Court having jurisdiction to consider the Motion and the relief it requests; and due and proper notice of the Motion having been provided in accordance

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

with the ADR Order and the Court's amended Order entered June 17, 2010 [ECF No. 9635]; and LBHI having adjourned the Motion as to the following Noncompliant Sellers pursuant to that certain Notice of Adjournment [ECF No. 55410]: America One Mortgage Corporation and Atlantic Trust Mortgage Corp.; and the Motion having been withdrawn, resolved or granted under separate Orders as to all other Noncompliant Sellers named in the Motion except for K&B Capital Corp.; and the Court having conducted a hearing for the Motion on June 2, 2017 with respect to K&B Capital Corp.; and the Court having found and determined that the relief sought in the Motion as to K&B Capital Corp. is in the best interests of LBHI, its creditors, and all parties in interest; and LBHI having submitted a revised version of the proposed order for the Motion to grant relief against K&B Capital Corp. separately as set forth herein; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Motion is GRANTED with respect to K&B Capital Corp. as set forth herein; and it is further

ORDERED that K&B Capital Corp. is found in contempt of and is sanctioned for violating this Court's ADR Order and is directed to reimburse LBHI for costs and expenses incurred in preparing and prosecuting the Motion in an amount to be approved and allocated by the Court as set forth herein, *provided that* if K&B Capital Corp. fully and timely complies with this Order by fully participating in mediation of its ADR Dispute and by tendering its respective share of mediation fees to the assigned mediator in an amount of no less than \$5,000, as set forth herein, then K&B Capital Corp. will be relieved and expunged of the sanctions entered herein; and it is further

ORDERED that within thirty (30) days of service of this Order, K&B Capital Corp. shall immediately comply with the ADR Order, and all applicable ADR Procedures

therein, shall immediately proceed to the Mediation Stage (as defined in the ADR Order), shall attend and fully participate in mediation of its ADR Dispute on one of the dates scheduled by the assigned mediator after entry of this Order and prior to that mediation K&B Capital Corp. shall deposit with the assigned mediator K&B Capital Corp.'s respective share of the retainer for the assigned mediation's fees, which amount shall be no less than \$5,000; and it is further

ORDERED that to the extent that K&B Capital Corp. fails to fully and timely comply with this Order after service of it, K&B Capital Corp. shall reimburse LBHI for its pro rata share of the costs and expenses, including reasonable attorneys' fees incurred by LBHI in making the Motion, as well as any subsequent motion practice resulting from K&B Capital Corp.'s further non-compliance, and LBHI shall serve upon K&B Capital Corp. and shall submit to this Court to approve LBHI's request for such reimbursement, and K&B Capital Corp. shall have fifteen (15) days to respond to LBHI's foregoing submission, and LBHI shall have seven (7) days to reply to K&B Capital Corp.'s response; and it is further

ORDERED that, in addition to the foregoing, to the extent that K&B Capital Corp. fails to fully and timely comply with this Order after the Order's service, K&B Capital Corp. shall be subjected sanctions in the amount of \$100.00 per day until K&B Capital Corp. fully complies; and it is further

ORDERED that the ADR Order shall remain in full force and effect; and it is further

ORDERED that notwithstanding any provision in the Federal Rules of Bankruptcy Procedure to the contrary, this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that this Court retains jurisdiction with respect to all matters arising from or related to the interpretation and implementation of this Order.

Dated: New York, New York
June 2, 2017

/S/ Shelley C. Chapman
HON. SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE